

MICHAEL JAY BERGER (State Bar # 100291)
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Proposed Attorney for Debtor-in-Possession,
Mr. Tortilla, Inc.

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SAN FERNANDO VALLEY DIVISION

In re

Case No.: 1:24-bk-10228-VK

Chapter 11

MR. TORTILLA, INC.,

Debtor-in-Possession.

**DEBTOR'S UPDATED STATUS
CONFERENCE REPORT #3;
DECLARATION OF ANTHONY
ALCAZAR IN SUPPORT THEREOF**

Continued Status Conference:

Date: August 1, 2024

Time: 1:00 P.M.

Place: Courtroom 301 (in-person and
ZoomGov)

21041 Burbank Blvd.

Woodland Hills, CA 91367

**TO THE HONORABLE VICTORIA S. KAUFMAN, JUDGE OF THE
UNITED STATES BANKRUPTCY COURT, TO THE UNITED STATES
TRUSTEE, TO THE SECURED CREDITORS, TO THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS, AND TO ALL INTERESTED
PARTIES AND THEIR ATTORNEYS OF RECORD:**

On behalf of Mr. Tortilla, Inc. ("Debtor"), debtor and debtor-in-possession herein,
the Law Offices of Michael Jay Berger ("Debtor's Counsel") hereby submits the
following updated Status Conference Report #3 ("Status Report"), as follows:

1 **1. SIGNIFICANT EVENTS IN THE BANKRUPTCY CASE SINCE THE**
2 **PRIOR STATUS CONFERENCE**

3 On June 17, 2024, the Court issued an Order authorizing Debtor's continued use
4 of cash collateral through June 27, 2024 [docket no. 224]. On July 10, 2024, the Court
5 issued an interim Order authorizing Debtor's continued use of cash collateral through
6 August 1, 2024 [docket no. 242]. On July 15, 2024, the Debtor filed the Second
7 Declaration of Anthony Alcazar in Support of Debtor's Motion for Order Authorizing
8 Interim Use of Cash Collateral ("Cash Collateral Motion"), including an updated cash
9 collateral budget [docket no. 253]. The continued hearing on the Cash Collateral Motion
10 is set for August 1, 2024.

11 On June 27, 2024, Debtor filed its Application to Employ Natalie Oliver as
12 Bookkeeper ("Application to Employ Bookkeeper") [docket no. 227]. On July 17, the
13 Court issued an Order approving Debtor's Application to Employ Bookkeeper [docket
14 no. 256].

15 On June 28, 2024, creditor Lyneer Staffing Solutions ("Lyneer") filed its Motion
16 for Relief from the Automatic Stay ("RFS Motion") [docket no. 231]. On July 17, 2024,
17 the Official Committee of Unsecured Creditors ("Creditors' Committee") filed its
18 Limited Objection and Reservation of Rights to the RFS Motion [docket no. 255]. Also
19 on July 17, 2024, the Debtor filed its Response to the RFS Motion [docket no. 257]. The
20 hearing on Lyneer's RFS Motion is scheduled for July 31, 2024.

21 On July 12, 2024, Debtor's counsel Michael Jay Berger filed his First Interim Fee
22 Application ("First Fee Application") [docket no. 246]. The hearing on the First Fee
23 Application is scheduled for August 8, 2024.

24 **2. DEBTOR'S PROGRESS AND SETBACKS TOWARD CONFIRMING A**
25 **CHAPTER 11 PLAN**
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1 Debtor has been successful in obtaining the release of its receivables frozen in its
2 vendor accounts with Shopify, Walmart, PayPal, Amazon Canada.

3 Debtor, though counsel, has been working with counsel for the Creditors'
4 Committee, Orrick, Herrington & Sutcliffe LLP ("Orrick") and the Creditors'
5 Committee's financial advisor Genesis Credit Partners LLC ("Genesis") in gathering
6 information relevant to the possible sale of all or part of the Debtor's business. It is
7 Debtor's understanding that Orrick and Genesis will be able to begin marketing the
8 Debtor's business to potential buyers within a month. Orrick has indicated that it will not
9 file an application for compensation of their professional fees and expenses until after the
10 Debtor's business has been sold.

11
12 Debtor has accrued significant post-petition administrative debt to Lyneer, for the
13 payment of Debtor's employees in the amount of approximately \$500,000, which is the
14 subject of Lyneer's pending RFS Motion. Additionally, Debtor wishes to hire certain
15 employees that it had contracted through Lyneer, and Lyneer disputes Debtor's right to
16 hire these employees. Debtor and Lyneer continue to negotiate over Debtor's ability to
17 hire employees that had been contracted through Lyneer.

18 Of the two options for the resolution of Debtor's bankruptcy—either continued
19 operation of Debtor's business, or sale of all or part of the business—it appears
20 increasingly likely that sale of the business will be necessary to ensure a distribution to
21 Debtor's unsecured creditors, and to pay Debtor's administrative claims.

22
23 LAW OFFICES OF MICHAEL JAY BERGER

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25
26 Dated: July 18, 2024

27 By: 

28 Michael Jay Berger
Attorney for Debtor,
Mr. Tortilla, Inc.

DECLARATION OF ANTHONY ALCAZAR

I, Anthony Alcazar, declare and state as follows:

1. I am the President and Director of Mr. Tortilla. Inc., the Debtor and Debtor-in-Possession (the "Debtor"). I am over the age of 18. I have personal knowledge of the facts I state below, and if I were to be called as a witness, I could and would competently testify about what I have written in this declaration.

2. On June 17, 2024, the Court issued an Order authorizing Debtor's continued use of cash collateral through June 27, 2024 [docket no. 224]. On July 10, 2024, the Court issued an interim Order authorizing Debtor's continued use of cash collateral through August 1, 2024 [docket no. 242]. On July 15, 2024, the Debtor filed the Second Declaration of Anthony Alcazar in Support of Debtor's Motion for Order Authorizing Interim Use of Cash Collateral ("Cash Collateral Motion"), including an updated cash collateral budget [docket no. 253]. The continued hearing on the Cash Collateral Motion is set for August 1, 2024.

3. On June 27, 2024, Debtor filed its Application to Employ Natalie Oliver as Bookkeeper ("Application to Employ Bookkeeper") [docket no. 227]. On July 17, the Court issued an Order approving Debtor's Application to Employ Bookkeeper [docket no. 256].

4. On June 28, 2024, creditor Lyneer Staffing Solutions ("Lyneer") filed its Motion for Relief from the Automatic Stay ("RFS Motion") [docket no. 231]. On July 17, 2024, the Official Committee of Unsecured Creditors ("Creditors' Committee") filed its Limited Objection and Reservation of Rights to the RFS Motion [docket no. 255]. Also on July 17, 2024, the Debtor filed its Response to the RFS Motion [docket no. 257]. The hearing on Lyneer's RFS Motion is scheduled for July 31, 2024.

5. On July 12, 2024, Debtor's counsel Michael Jay Berger filed his First Interim Fee Application ("First Fee Application") [docket no. 246]. The hearing on the First Fee Application is scheduled for August 8, 2024.

1 6. Debtor has been successful in obtaining the release of its receivables frozen
2 in its vendor accounts with Shopify, Walmart, PayPal, Amazon Canada.

3 7. Debtor, through counsel, has been working with counsel for the Creditors'
4 Committee, Orrick, Herrington & Sutcliffe LLP ("Orrick") and the Creditors'
5 Committee's financial advisor Genesis Credit Partners LLC ("Genesis") in gathering
6 information relevant to the possible sale of all or part of the Debtor's business. It is
7 Debtor's understanding that Orrick and Genesis will be able to begin marketing the
8 Debtor's business to potential buyers within a month. Orrick has indicated that it will not
9 file an application for compensation of their professional fees and expenses until after the
10 Debtor's business has been sold.

11 8. Debtor has accrued significant post-petition administrative debt to Lyneer,
12 for the payment of Debtor's employees in the amount of approximately \$500,000, which
13 is the subject of Lyneer's pending RFS Motion. Additionally, Debtor wishes to hire
14 certain employees that it had contracted through Lyneer, and Lyneer disputes Debtor's
15 right to hire these employees. Debtor and Lyneer continue to negotiate over Debtor's
16 ability to hire employees that had been contracted through Lyneer.

17 9. Of the two options for the resolution of Debtor's bankruptcy—either
18 continued operation of Debtor's business, or sale of all or part of the business—it appears
19 increasingly likely that sale of the business will be necessary to ensure a distribution to
20 Debtor's unsecured creditors, and to pay Debtor's administrative claims.

21
22
23 I declare under penalty of perjury that the foregoing is true and correct and that
24 this declaration is executed on July 18, 2024 at San Fernando, California.

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Anthony Alcazar

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
9454 Wilshire Blvd., 6th Fl., Beverly Hills, CA 90212

A true and correct copy of the foregoing document entitled (*specify*) **DEBTOR'S UPDATED STATUS CONFERENCE REPORT #3; DECLARATION OF ANTHONY ALCAZAR IN SUPPORT THEREOF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 7/18/2024, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On 7/18/2024, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on 7/18/2024, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Honorable Victoria Kaufman
United States Bankruptcy Court
Central District of California
21041 Burbank Boulevard, Suite 354 / Courtroom 301
Woodland Hills, CA 91367

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

7/18/2024
Date

Peter Garza
Printed Name

/s/Peter Garza
Signature

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

Counsel for Debtor: Michael Jay Berger michael.berger@bankruptcypower.com,
yathida.nipha@bankruptcypower.com; michael.berger@ecf.inforuptcy.com

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cmamayson@thompsoncoburn.com, smagnus@thompsoncoburn.com, DocketLA@thompsoncoburn.com

U.S. Trustee: Katherine Bunker kate.bunker@usdoj.gov

Counsel for Sand Park: Brian T Corrigan bcorrigan@cormorllp.com, sem@cormorllp.com

Counsel for Spartan Business Solutions: Anthony F. Giuliano afg@glpcny.com

Counsel for 8fig Inc.: John E Johnson jjohnson@padfieldstout.com

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Counsel for Blue Bridge: Jeffrey Garfinkle jgarfinkle@buchalter.com, docket@buchalter.com;
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2. SERVED BY UNITED STATES MAIL

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SECURED CREDITORS:

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Canton, MA 02021

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Miami, FL 33140

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San Francisco, CA 94107

Spartan Capital
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Middletown, NY 10940

Stor RB One Limited
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London, UK SW1H9HP GBR

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10737 Gateway West, #300
El Paso, TX 79935

U.S. Small Business Administration
c/o Elan S. Levey
300 N. Los Angeles Street
Fed. Bldg. Rm. 7516
Los Angeles, CA 90012

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